

City Council Introduction: **Monday**, March 4, 2002
Public Hearing: **Monday**, March 11, 2002, at **1:30** p.m.

Bill No. 02R-30

FACTSHEET

TITLE: **WAIVER OF DESIGN STANDARDS NO. 01015**, requested by Virgil Carner on behalf of the Orchard Park Retirement Community, to extend the time for construction and installation of sidewalk and street name sign, on property generally located at South 48th and High Streets.

STAFF RECOMMENDATION: Conditional approval.

ASSOCIATED REQUESTS: None

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda, 07/25/01
Administrative Action: 07/25/01

RECOMMENDATION: Conditional approval (9-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes').

FINDINGS OF FACT:

1. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3-4.
2. This application was placed on the Consent Agenda of the Planning Commission on July 25, 2001, and opened for public hearing. No one came forward to speak.
3. The Planning Commission agreed with the staff recommendation.
4. The conditions of approval are found on p.4.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: February 25, 2002

REVIEWED BY: _____

DATE: February 25, 2002

REFERENCE NUMBER: FS\CC\2002\WDS.01015

W44

DATE: July 5, 2001

GENERAL INFORMATION:

On **January 25, 1988**, Special Permit #1257 for elderly housing and domiciliary care facilities was approved by the City Council.

On **September 26, 1988**, Omnivillage Addition Final Plat #87503 was approved by the City Council.

On **October 6, 1988** the Planning Director approved administrative amendment #611 to revise grading, parking, road grades, to add 14 beds to the domiciliary care facility and relocate the 6" sanitary sewer and 2" water mains.

On **June 26, 1989** the Planning Director approved administrative amendment #671 to relocate the entrance and revise the sign and landscaping.

On **May 14, 1996** the Planning Director approved administrative amendment #96020 to show a maintenance garage.

ANALYSIS:

- Sidewalks required a \$2,500.00 escrow which was accepted on September 13, 1988. The sidewalks were to be completed four years from the date of the final plat. The pedestrian sidewalks required a \$4,600 escrow which was accepted on September 13, 1988. The pedestrian sidewalks were to be completed four years from the date of the final plat. The street signs required a \$400 escrow which was accepted on September 13, 1988. The street signs were to be completed two years from the date of the final plat.
- This is an after the fact request for a waiver of design standards to extend the time that minimum improvements be installed required by Sections 26.27.020 and 26.27.110 of the Land Subdivision Ordinance.
- This request is in response to the Law Departments investigation that found they had failed to complete the minimum improvements.
- The construction of sidewalks in the pedestrian easements are required to be completed four years from the time of final platting. Street signs are required to be installed within two years from the time of the approval of the final plat.
- The Public Works and Utilities Department indicated that sidewalks along Pawnee Street are completed. The \$2,500 surety for this sidewalk should be released.
- The Public Works and Utilities Department indicated that a street sign should be installed for the intersection of Apple Hill Lane and 48th Street. The other 2 signs are not necessary until the private roadway is completed.
- The Public Works and Utilities Department indicated that the sidewalks are not built parallel to the north-south portion of Apple Hill Lane, also presently not built. Apple Hill Lane construction is apparently tied to the construction of future phases of this special permit for this area. The Public Works and Utilities Department does not object to the time extension for completion of the sidewalk in the easement.

- The developer has posted bonds for the construction of sidewalks and street signs and signed legal agreements declaring that the improvements would be constructed by 9/26/92 (four years) and 9/26/90 (two years).

STAFF RECOMMENDATION:

Conditional approval

CONDITIONS:

1. The street name sign at Apple Hill Lane and S. 48th Street shall be installed within 30 days, however other street signs shall be installed at the time of the paving of the private roadway to Pawnee Street is paved.
2. Sidewalks adjacent to the portion of Apple Hill Lane that has not yet been constructed shall be installed at the time of the paving of the private roadway to Pawnee Street is paved.

Prepared by:

Becky Horner
Planner

WAIVER OF DESIGN STANDARDS NO. 01015

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

July 25, 2001

Members present: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor.

The Consent agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 206; COUNTY MISCELLANEOUS NO. 01007; CHANGE OF ZONE NO. 3331; MISCELLANEOUS NO. 01006; FINAL PLAT NO. 00022, LINCOLN BALLPARK ADDITION; COUNTY FINAL PLAT NO. 01022, HAWK'S POINT; WAIVER OF DESIGN STANDARDS NO. 01013; WAIVER OF DESIGN STANDARDS NO. 01015; and MISCELLANEOUS NO. 01008.**

Item No. 1.1a, County Change of Zone No. 206; Item No. 1.1b, County Miscellaneous No. 01007; Item No. 1.1c, Change of Zone No. 3331; Item No. 1.1d, Miscellaneous No. 01006; and Item No. 1.6, Miscellaneous No. 01008, were removed from the Consent Agenda and scheduled for separate public hearing.

Newman moved to approve the remaining Consent Agenda, seconded by Krieser and carried 9-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'.



Waiver of Design Standards #01015
S. 48th & High St.

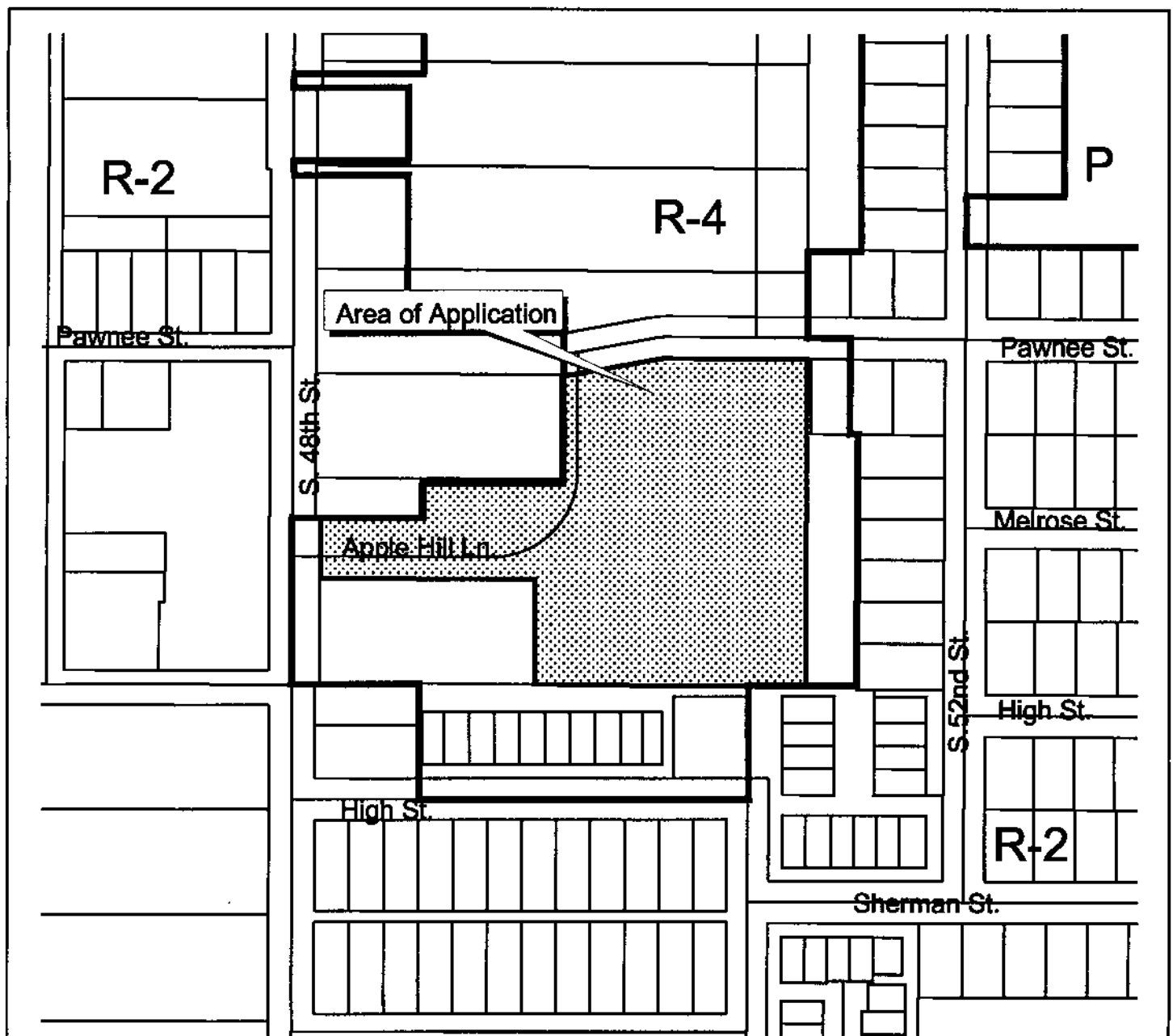


7/16/01

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Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

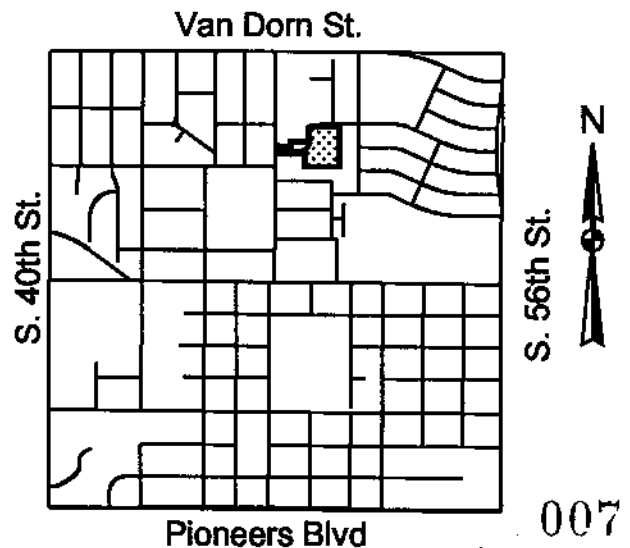
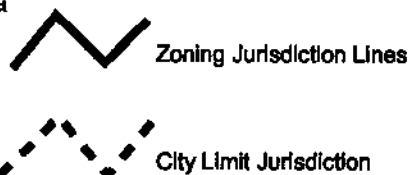


Waiver of Design Standards #01015 S. 48th & High St.

Zoning:

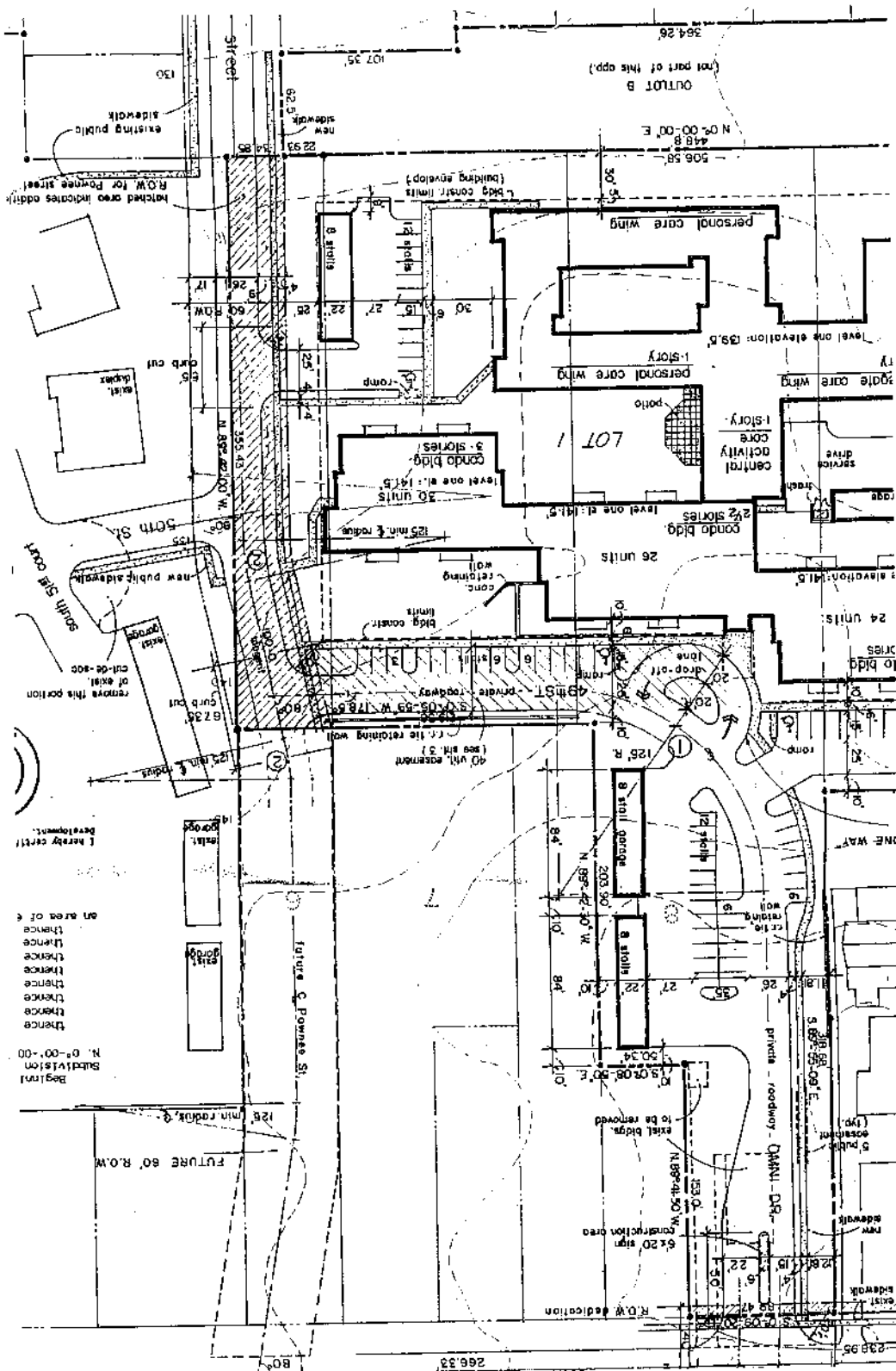
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 5 T9N R7E



007

7/16/01





12 March 2001

C.C.C. Construction
Mr. Clifford Cheever
6940 Van Dorn, Ste 105
Lincoln, NE 68508

RE: Omnivillage

Dear Mr. Cheever

Upon review of our files we note that C.C.C. Construction has failed to comply with the conditions of approval of Ordinance No. 15003 accepting and approving the plat designated as Omnivillage. Specifically our records show the following requirements have not been met:

1. That said owners shall at their own cost and expense pay for all labor, material, engineering, and inspection costs in connection with the construction of sidewalks as shown in the public street shown on the final plat. The construction shall be completed within four years (i.e. 26 September 1992) following City Council approval of this final plat.

2. That said owners shall at their own cost and expense pay for all labor, material, engineering, and inspection costs in connection with the construction of sidewalks in the pedestrian way easement shown on the final plat. The construction shall be completed within four years (i.e. 26 September 1992) following City Council of this final plat.

3. That said owners shall at their own cost and expense pay for all labor, material, and related costs in connection with the installation of street name signs as approved by the Department of Transportation. This installation shall be completed within two years (i.e. 26 September 1990) following City Council approval of this final plat. Please note that frequently the problem is not failure to install the signs, but failure to pay the City for the signs.

In your agreement with the City dated 14 September 1988 you agreed to complete the described improvements and pay the costs thereof.

Law Department / Dana W. Roper, City Attorney / 575 South 10th Street / Suite 4201 / Lincoln, Nebraska 68508
Phone: 402-441-7281 / Civil Fax: 402-441-8812 / Pros. Fax: 402-441-8813 / Website: www.ci.lincoln.ne.us

Ernest R. (Rick) Peo III, Chief Assistant • John C. McQuinn II, Chief Prosecutor • Richard C. Anderson, Police Legal Advisor
Civil: James D. Faimon • Don W. Taute • Steven J. Huggenberger • Joel D. Pedersen • Connor L. Renter • Margaret M. Blatchford
Prosecution: Patrick C. Campbell • Christine A. Loseke • Rob E. Caples • Marcee A. Sheil

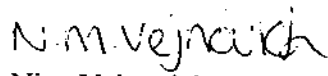
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Page 2
12 March 2001
C.C.C. Construction

If you believe our records are incorrect please let me know, so that I can verify the improvement(s) have been completed. Otherwise, please let me know when the improvements will be installed.

Your failure to respond to this letter or to make satisfactory arrangements for the installation of those improvements within ten (10) days from the date of this letter will leave the City with no recourse but to institute proceedings to enforce C.C.C. Construction's obligations under the agreement.

Yours truly,



Nina Vejnovich
Paralegal

cc Rick Peo
Assistant City Attorney

JUNE 28,2001

PLANNING DEPARTMENT
CITY OF LINCOLN

RE OMNIVILLAGE

TO WHOM IT MAY CONCERN:

NINA VEJNOVICH OF THE CITY LEGAL DEPARTMENT HAS DIRECTED ME TO WRITE TO THE PLANNING DEPARTMENT IN RE GARDS TO OMNIVALLAGE IN REGARDS TO THE REQUIRMENTS THAT WERE ORGINALLY CALLED FOR.

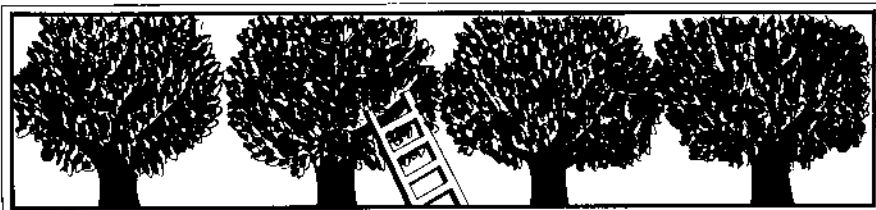
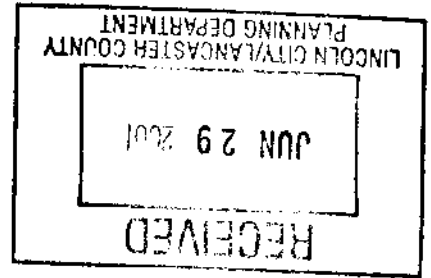
THESE CONDITIONS WERE CALLED FOR WHEN THE SITE IS COMPLETED WHICH IT IS NOT , THE APARTMENT HAVE NOT BEEN BUILT AND SO THE ROAD AND SIDEWALKS AND STREET SIGN HAVE NOT BEEN PUT IN.

WE HAVE HOPE OF STILL COMPLETING THE PLAN BUT I CANNOT SAY WITH ANY CERTAINITY WHEN THIS WOULD BE.THERE FORE I WOULD KINDLY REQUEST A WAIVER FOR THE CONDITIONS UNTIL SUCH TIME AS WE WOULD BUILD THE REST OF THE PLAN. PLEASE SEE THE ATTACHED LETTER OF MARCH 12,2001 THAT ARE SPECIFICALLY REFERRED TO THEREIN.

SINCERELY,



VIRGIL L. CARNER, PRES



Orchard Park

A Retirement Community

3110 So. 48th St. • ~~P.O. Box 6146~~
Lincoln, Nebraska 68506
(402) 488-8191

011

MS. NINA VEJNOVICH
PARALEGAL
LAW DEPT, SUITE 4201
CITY OF LINCOLN
575 S. 10TH ST.
LINCOLN ,NE. 68508

RECEIVED
JUN 08 2001
LAW DEPT.

DC9547

RE: OMNIVILLAGE

DEAR MS. VEJNOVICH;

DURING APRIL I CONTACTED CHARLES BAKER OF THE CITY ENGINEERING SERVICES IN REGARDS TO YOUR LETTER OF MARCH 12,2001. WE DISCUSSED THE HISTORY OF OMNIVILLAGE ORD. NO. 15003.

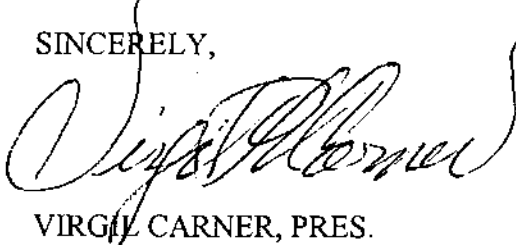
SPECIFICALLY:

1 AND 2. THE SIDEWALK SYSTEM HAS NOT BEEN FINISHED DUE TO THE PROJECT NOT HAVING BEEN COMPLETED WITH THE ADDITIONAL APARTMENTS. ENGINEERING HAS ALWAYS AGREED THAT THIS WAS NOT NECESSARY AS IT WOULD NOT BE PRUDENT TO PUT IN THE SIDE WALK UNTIL THE EXTENSION OF APPLE HILL LANE IS COMPLETE.

3.AS TO THE STREET SIGN IT WOULD BE REALLY CONFUSING TO HAVE TO HAVE OUR DRIVEWAY NAMED AND NO ONE WOULD KNOW WHERE IT IS LOCATED IN LINCOLN. WHEREAS 3110 S. 48TH ST. IS QUITE EASY TO FIND.

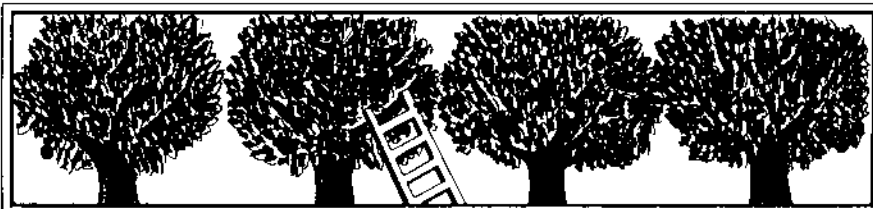
WE WOULD ASK THAT THESE REQUIREMENTS BE SET ASIDE UNTIL THE EXTENSION OF OUR DRIVE IS NECESSARY TO CONNECT TO PAWNEE ST. THANK YOU FOR YOUR CONSIDERATION.

SINCERELY,



VIRGIL CARNER, PRES.

Cc: charles baker



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M e m o r a n d u m

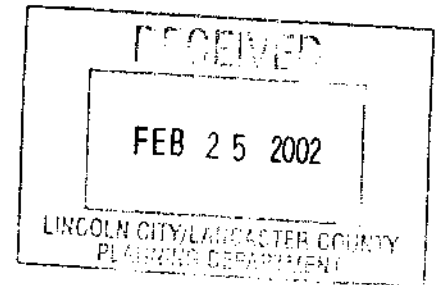
[REDACTED]

To: Jason Reynolds, Planning
From: Dennis Bartels, Engineering Services
Subject: Time Extension on Sidewalks and Street Sign, Omni Village
Date: July 11, 2001
cc: Roger Figard
Nicole Fleck-Tooze
Harry Kroos

Public Works has reviewed the requested time extensions to build improvements required with the Omni Village final plat and has the following comments:

1. The sidewalks not built are parallel to the north-south portion of Apple Hill Lane, also presently not built. Apple Hill Lane construction is apparently tied to the construction of future phases of this special permit for this area. Public Works would not object to the time extension for completion of the easement walk.
2. The sidewalks along Pawnee Street are constructed. The \$2500 surety for this sidewalk will be released. No extension will be necessary.
3. A street sign should be installed for the intersection of Apple Hill Lane and 48th Street. The other 2 street signs are not necessary until the private street is completed.
4. It is noted that Pawnee Street has been built.

FEBURARY 22,2002



BECKY HORNER,PLANNER
LINCOLN-LANCASTER CO. PLANNING DEPT.
555 S.10TH ST.
LINCOLN NE. 68508

RE: WAIVER OF DESIGN STANDARDS #01015

DEAR MS. HORNER,

AS PER OUR BRIEF CONVERSATION TODAY, FEB.22,2002, I AM IN AGREEMENT FOR THE DEPARTMENT TO PROCED WITH WAIVER REQUEST BEING PROCESSED AS DISCUSSED.

EVEN THOUGH I DID NOT GET A WRITTEN GUARANTTEE FROM THE BUILDING AND SAFETY DEPT ABOUT THE ISSUE OF THE STREET SIGN CHANGING THE ADDRESS OF ORCHARD PARK, I DID RECEIVE A VERBAL OPINION THAT ERECTING THE STREE SIGN WOULD NOT CHANGE THE CURRENT ADDRESS FROM SO. 48TH STREET.

IN REGARDS TO THE SIDEWALKS WE WOULD CONTINUE TO ASK FOR A DELAY OF THE REQUIREMENT ALONG THE NON-EXISTENT STREET THAT WOULD CONNECT OUR DRIVEWAY (APPLEHILL LANE) TO PAWNEE ST.

ALL OTHER SIDEWALKS HAVE BENN CONSTRUCTED AT THE TIME OF THE CONSTRUCTION OF THE BUILDING IN 1988-89.

SINCERELY,

A handwritten signature in cursive script, appearing to read "Virgil L. Carner".

VIRGIL L. CARNER,PRES.

Cc: NINA VEJNOVICH, PARALEGAL
LAW DEPARTMENT



Orchard Park

A Retirement Community

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